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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 THURMAN F. SHERRILL,

11 Petitioner,

12 v.

13 PATRICK GLEBE,

14 Respondent.

Case No. C09-5566RJB

ORDER

This matter is before the court upon petitioner's motion to expand the record, Doc. 17.

The Court, having reviewed the motion and the balance of the record, does hereby find and

ORDER:

(1) Petitioner asks the court to include in its review two additional documents. Both documents are state court rulings by the Washington State Court of Appeals in related underlying matters.

(2) Generally, a habeas petitioner's ability to expand the record is limited. See 28 USCA § 2254 (e)(2). See also, Holland v. Jackson, 542 U.S. 649, 652, (2004); Cooper-Smith v. Palmateer, 397 F.3d 1236, 1241 (9th Cir.), *cert. denied*, 546 U.S. 944 (2005). Courts distinguish between an expansion of the record for purposes of establishing the factual predicate of a claim,
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and an expansion of the record to cure omissions in the state court record. Runningeagle v. Schriro, 2007 WL 4200743 *26 (D. Ariz. 2007). If additional materials are admitted, the court must give respondent the opportunity to admit or deny their correctness. Rule 7(c) of the Rules Governing Section 2254 Cases.

(3) The state court rulings in question appear to be relevant to the issues of exhaustion of state remedies and to the merits of the state court rulings. Accordingly, petitioner's motion to expand the record to include the exhibits attached to his traverse, Doc. 16, is GRANTED.

(4) To provide respondent the opportunity to admit or deny the correctness of this additional material, respondent shall have until **January 25, 2010** to file any objections to including the documents in the court's review of the underlying petition.

(5) The Clerk is directed to send copies of this Order and the General Order to petitioner.

DATED this 30th day of December, 2009.

J. K. Ward Creative

J. Richard Creatura
United States Magistrate Judge